



1 Plaintiff NXP Semiconductors USA, Inc. ("NXP"), for its complaint against Defendants  
2 France Brevets, S.A.S. ("France Brevets"), NFC Technology, LLC ("NFCT"), and INSIDE  
3 Secure, S.A.S. ("INSIDE Secure"), alleges as follows:

4 **NATURE AND BASIS OF ACTION**

5 1. NXP asserts claims for declaratory judgment of non-infringement and invalidity  
6 of U.S. Patents Nos. 6,700,551 ("the '551 patent"), 7,665,664 ("the '664 patent"), and 7,905,419  
7 ("the '419 patent") (collectively, "the Patents in Suit"). This action arises from Defendants'  
8 licensing and enforcement efforts with respect to the Patents in Suit.

9 **PARTIES**

10 2. Plaintiff NXP Semiconductors USA, Inc. ("NXP") is a corporation organized and  
11 existing under the laws of the State of Delaware, having its principal place of business at 411  
12 East Plumeria Drive, San Jose, California.

13 3. Defendant France Brevets, S.A.S. ("France Brevets") is a corporation organized  
14 and existing under the laws of France, having its principal place of business at 47 Rue de la  
15 Victoire, Paris, France. Upon information and belief, France Brevets is currently assigned an  
16 exclusive worldwide license to various patents owned by INSIDE Secure, which France Brevets  
17 seeks to license to third-parties. Upon information and belief, France Brevets is currently  
18 assigned an exclusive worldwide license to at least the '419 Patent. Upon information and  
19 belief, France Brevets is an agent of INSIDE Secure.

20 4. Upon information and belief, Defendant INSIDE Secure, S.A.S. ("INSIDE  
21 Secure") is a corporation organized and existing under the laws of France, having its principal  
22 place of business at Rue de la carrière de Bachasson, Mayreuil, France. Upon information and  
23 belief, INSIDE Secure is the owner of certain patents which have been licensed exclusively to  
24 France Brevets. Upon information and belief, INSIDE Secure is the owner of at least the '419  
25 Patent. Upon information and belief, INSIDE Secure assigned the '551 and '664 Patents to  
26 NFCT but may still possess a residual or equitable interest in one or both of those patents. Upon  
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1 information and belief, INSIDE Secure is the owner of the European patent counterparts of the  
2 '551, '664, and '419 Patents.

3 5. Upon information and belief, Defendant NFC Technology, LLC ("NFCT") is a  
4 limited liability corporation organized and existing under the laws of the State of Delaware,  
5 having a principal place of business at 100 West Houston, Marshall, Texas. Upon information  
6 and belief, NFCT is an alter-ego and/or agent of France Brevets and was created solely for the  
7 purpose of holding and litigating one or more of the Patents in Suit against companies in the  
8 United States. Upon information and belief, NFCT is the owner of the '551 Patent and the '664  
9 Patent, having been assigned those patents by INSIDE Secure on or about November 28, 2013.

### 10 **JURISDICTION AND VENUE**

11 6. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et*  
12 *seq.*, including 35 U.S.C. § 271, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and  
13 2202. Subject matter jurisdiction is based at least upon 28 U.S.C. §§ 1331 and 1338(a).

14 7. Subject matter jurisdiction over NXP's claims for relief against France Brevets  
15 and its alter-ego and/or agent NFCT also exists under 28 U.S.C. § 1330(a) because France  
16 Brevets, including its alter-ego and/or agent NFCT, is an "agency or instrumentality of a foreign  
17 state" as defined in 28 U.S.C. § 1603(b), and is therefore included within the meaning of a  
18 "foreign state" as defined in 28 U.S.C. § 1603(a). Upon information and belief, France Brevets  
19 was established with funding provided by the French government and by the Caisse des Dépôts  
20 et Consignations, a French governmental agency. NXP's claims against France Brevets and  
21 NFCT are based upon commercial activity within the general exceptions to jurisdictional  
22 immunity of 28 U.S.C. § 1605, such that France Brevets and its alter-ego and/or agent NFCT  
23 are not entitled to immunity with respect to these claims. Subject matter jurisdiction as to  
24 NXP's claims therefore also exists under 28 U.S.C. § 1330(a).

25 8. This Court has personal jurisdiction under 28 U.S.C. § 1330(b) over France  
26 Brevets and its alter-ego and/or agent NFCT because, as set forth above, this Court has  
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1 jurisdiction over NXP's claims for relief against France Brevets and its alter-ego and/or agent  
2 NFCT under 28 U.S.C. § 1330(a).

3 9. Additionally, this Court has personal jurisdiction over France Brevets because,  
4 upon information and belief, France Brevets has engaged in licensing and enforcement activities  
5 relating to the Patents in Suit directed to the United States, including communications with  
6 customers of NXP products. Upon information and belief, France Brevets controls the  
7 operations of NFCT and directs litigation strategy with respect to the Patents in Suit.

8 10. This Court has personal jurisdiction over INSIDE Secure because, upon  
9 information and belief, INSIDE Secure is the owner of the '419 Patent and has entered into a  
10 licensing agreement with France Brevets with the intent of generating revenue from licensing  
11 and enforcement of the '419 Patent in the United States. Upon information and belief, France  
12 Brevets has directed such licensing and enforcement efforts at customers of NXP products, and  
13 is an agent of INSIDE Secure. Additionally, upon information and belief, INSIDE Secure has a  
14 United States subsidiary with its principal place of business at 555 Twin Dolphin Drive, Suite  
15 620, Redwood City, California.

16 11. This Court also has personal jurisdiction over NFCT because, upon information  
17 and belief, NFCT is an alter ego and/or agent of France Brevets. Upon information and belief,  
18 NFCT has no meaningful assets other than the '551 and '664 Patents and conducts no business  
19 other than the filing of one or more lawsuits regarding infringement of the '551 and '664  
20 Patents. Upon information and belief, France Brevets controls the day-to-day operations of  
21 NFCT.

22 12. Venue is proper in this judicial district based on 28 U.S.C. §§ 1391(b)-(c) and/or  
23 1400(b).

### 24 **THE PATENTS IN SUIT**

25 13. On information and belief, U.S. Patent No. 6,700,551, entitled "Antenna Signal  
26 Amplitude Modulation Method," was issued on March 2, 2004, and is currently assigned to  
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1 NFCT. The '551 Patent was formerly assigned to INSIDE Secure. A copy of the '551 Patent is  
2 attached hereto as Exhibit A.

3 14. On information and belief, U.S. Patent No. 7,665,664, entitled "Inductive  
4 Coupling Reader Comprising Means for Extracting a Power Supply Voltage," was issued on  
5 February 23, 2010, and is currently assigned to NFCT. The '664 Patent was formerly assigned  
6 to INSIDE Secure. A copy of the '664 Patent is attached hereto as Exhibit B.

7 15. On information and belief, U.S. Patent No. 7,905,419, entitled "Method for  
8 Routing Outgoing and Incoming Data in an NFC Chipset," was issued on March 15, 2011, and  
9 is currently licensed to France Brevets. The '419 Patent is currently assigned to INSIDE  
10 Secure. A copy of the '419 Patent is attached hereto as Exhibit C.

11 **RELATIONSHIPS AMONG THE DEFENDANTS**

12 16. Upon information and belief, on or about June 12, 2012, France Brevets and  
13 INSIDE Secure entered into an agreement whereby INSIDE Secure granted to France Brevets a  
14 worldwide exclusive license to grant non-exclusive licenses of patents included in the "NFC  
15 patent licensing program," which includes the Patents in Suit.

16 17. In a joint press release issued June 21, 2012 by France Brevets and INSIDE  
17 Secure, France Brevets and INSIDE Secure announced the launch of a "near field  
18 communication patent licensing program." Through that agreement, France Brevets manages  
19 and leads all efforts to license INSIDE Secure's patents regarding near field communication  
20 technology. A copy of the June 21, 2012 press release is attached hereto as Exhibit D.

21 18. Upon information and belief, in or about June 2013, France Brevets and INSIDE  
22 Secure entered into a licensing agreement that was recorded on or about October 1, 2013 by the  
23 U.S. Patent and Trademark Office. Pursuant to that agreement, INSIDE Secure licensed the  
24 '419 Patent to France Brevets, the conveyance of which was recorded with the U.S. Patent and  
25 Trademark Office on or about October 1, 2013. A copy of the assignment and accompanying  
26 licensing agreement is attached hereto as Exhibit E.  
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1           19.     NFCT was formed on November 19, 2013. At the time of NFCT's formation,  
2     upon information and belief, the sole initial manager of NFCT was France Brevets. A copy of  
3     the Certificate of Formation of Limited Liability Company for NFCT is attached hereto as  
4     Exhibit F.

5           20.     Upon information and belief, NFCT was organized in Marshall, Texas at the  
6     behest of France Brevets for the sole purpose of establishing the Eastern District of Texas as the  
7     forum for a lawsuit alleging infringement of patents assigned by INSIDE Secure to France  
8     Brevets or its alter-ego and/or agent, NFCT.

9           21.     By an Assignment of Patent Rights dated November 28, 2013 and recorded on  
10    December 11, 2013, INSIDE Secure assigned the '551 and '664 Patents, respectively, to NFCT.  
11    The conveyance was signed on behalf of NFCT by its CEO, Jean Charles Hourcade. Upon  
12    information and belief, Jean Charles Hourcade is also the managing director of France Brevets.  
13    A copy of the Assignment of Patent Rights to NFCT is attached hereto as Exhibit G.

14  
15                   **FRANCE BREVETS SEEKS TO LICENSE THE PATENTS IN SUIT**  
16                   **TO USERS OF NXP PRODUCTS**

17           22.     Upon information and belief, France Brevets has approached customers of NXP  
18    products regarding the licensing and enforcement of patents either assigned to NFCT or  
19    assigned to INSIDE Secure and licensed to France Brevets, including the Patents in Suit.

20           23.     Upon information and belief, France Brevets' licensing efforts have included the  
21    presentation of claim charts for infringement of the '551 Patent by products "utilizing a NXP  
22    PN544 NFC Communication Controller." Such claim charts contain images of NXP's PN544  
23    product, information derived from the reverse engineering of components of the PN544 product,  
24    and excerpts from NXP documents regarding the PN544 product.

25           24.     Upon information and belief, France Brevets' licensing efforts have also included  
26    the presentation of claim charts for infringement of the '664 Patent by products "utilizing a NXP  
27    PN544 NFC Communication Controller." Such claim charts contain images of NXP's PN544  
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1 product, information derived from the reverse engineering of components of the PN544 product,  
2 and excerpts from NXP's documents regarding the PN544 product.

3 25. Upon information and belief, France Brevets' licensing efforts further included  
4 the presentation of information about European Patent No. 1,855,229 and its United States  
5 counterpart, the '419 Patent.

6 **NFCT SUES USERS OF NXP PRODUCTS FOR**  
7 **INFRINGEMENT OF THE '551 AND '664 PATENTS**

8 26. On December 5, 2013, NFCT filed claims ("the NFCT Lawsuit") in the Eastern  
9 District of Texas against HTC America, Inc. ("HTC"), LG Electronics USA, Inc., and LG  
10 Electronics Mobilecomm (collectively, "LG"). In the NFCT Lawsuit, NFCT asserts that HTC  
11 and LG infringe one or more claims of the '551 and '664 Patents—two of the three patents at  
12 issue in this declaratory judgment action—by "making, using, selling, importing, and/or offering  
13 for sale mobile phones and/or other devices, *having NXP Semiconductors chips* and other  
14 components with Near Field Communication (NFC) capability." (emphasis added) A copy of  
15 the complaint from the NFCT Lawsuit is attached hereto as Exhibit H.

16 27. In the NFCT Lawsuit, NFCT contends that the '551 and '664 Patents are valid  
17 and enforceable.

18 28. Upon information and belief, the primary basis for NFCT's allegations of  
19 infringement by HTC and LG is their respective utilization of NXP products, such as the PN544  
20 product, that include near-field communications capability.

21 **FRANCE BREVETS SUES USERS OF NXP PRODUCTS FOR INFRINGEMENT**  
22 **OF THE EUROPEAN COUNTERPARTS OF THE PATENTS IN SUIT**

23 29. On December 5, 2013, France Brevets filed claims in its own name ("the FB  
24 Lawsuits") in Düsseldorf, Germany against LG Electronics Deutschland GmbH and HTC  
25 Germany GmbH. In the FB Lawsuits, France Brevets asserts that LG Electronics Deutschland  
26 GmbH and HTC Germany GmbH infringe one or more claims of the following patents:  
27 European Patent No. 1,855,229 (the counterpart of the '419 Patent), German Patent No. 20 2006  
28

021 229 (the counterpart of the '664 Patent), and European Patent No. 1,163,718 (the counterpart of the '551 Patent).

30. In the FB Lawsuits, France Brevets asserts that the European patent counterparts to the '551 Patent, the '664 Patent, and the '419 Patent are valid and enforceable.

31. Upon information and belief, France Brevets' infringement allegations in the FB Lawsuits arise from the same circumstances and products as the infringement allegations of the NFCT Lawsuit, and France Brevets' allegations of infringement by LG Electronics Deutschland GmbH and HTC Germany GmbH will be based primarily upon the same utilization of NXP products, such as the PN544 product, as the allegations in the NFCT Lawsuit.

32. On December 9, 2013, France Brevets issued a press release announcing the filing of patent infringement lawsuits against LG and HTC in Germany and in the United States. The press release identifies NFCT, "an affiliate of France Brevets," as the party filing the U.S. lawsuit. The press release further states that "FB is represented by McKool Smith for the US litigation." A copy of the December 9, 2013 press release is attached hereto as Exhibit I.

#### **CONTROVERSY BETWEEN NXP AND THE DEFENDANTS REGARDING THE PATENTS IN SUIT**

33. NXP sells and offers for sale in the United States semiconductor products with near field communication capability, including the PN544 NFC Controller product and other products.

34. Upon information and belief, Defendants have threatened to sue, and have sued, users of NXP products with near field communication capability, including the PN544 NFC Controller product, based upon their use of those products.

35. Defendants' licensing and enforcement actions threaten to harm the goodwill of NXP's customers towards NXP.

36. Defendants' licensing and enforcement actions may prompt users of NXP products to cease using NXP products in order to circumvent Defendants' allegations of

1 infringement of the Patents in Suit, lawsuits by Defendants based thereon, or the cost of  
 2 licensing the Patents in Suit, resulting in lost sales for NXP.

3 37. Accordingly, an immediate and real controversy exists between NXP and  
 4 Defendants concerning Defendants' claims of infringement of the Patents in Suit by NXP's  
 5 products and concerning the invalidity of the Patents in Suit.

6  
 7 **COUNT ONE**  
**(Declaratory Judgment of Invalidity of U.S. Patent No. 6,700,551)**

8 38. NXP repeats and realleges Paragraphs 1 through 37 above as though fully set  
 9 forth herein.

10 39. France Brevets, through its licensing and enforcement activities and through the  
 11 NFCT Lawsuit filed by its alter-ego and/or agent NFCT, contends that the '551 Patent is valid  
 12 and enforceable.

13 40. NXP contends that at least claims 1 and 5 of the '551 Patent are invalid and  
 14 unenforceable for failure to satisfy one or more of the requirements for patentability, including  
 15 as set forth in 35 U.S.C. §§ 102, 103, and/or 112.

16 41. For example, at least claims 1 and 5 of the '551 Patent are anticipated or  
 17 rendered obvious by the prior art.

18 42. Furthermore, at least claims 1 and 5 of the '551 Patent lack adequate written  
 19 description, are not enabled, and/or are indefinite.

20 43. As set forth above, an actual and justiciable controversy exists between NXP and  
 21 Defendants regarding the validity of the '551 Patent.

22 44. NXP is entitled to a declaration that at least claims 1 and 5 of the '551 Patent are  
 23 invalid.

24  
 25 **COUNT TWO**  
**(Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,700,551)**

26 45. NXP repeats and realleges Paragraphs 1 through 44 above as though fully set  
 27 forth herein.  
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46. NXP has not directly infringed and does not directly infringe any valid and enforceable claim of the '551 Patent by any manufacture, use, sale, importation, licensing and/or offer for sale of NXP products with near field communication capability, including at least the PN544 product, and NXP is entitled to a judicial declaration to that effect.

47. NXP also has not indirectly infringed and does not indirectly infringe, either by contribution or by inducement, any valid and enforceable claim of the '551 Patent through making, using, selling, offering for sale or importing NXP products with near field communication capability, including at least the PN544 product, and NXP is entitled to a judicial declaration to that effect.

48. Additionally, NXP has not possessed and does not possess the specific intent to encourage another's infringement of the '551 Patent through the use or incorporation of NXP products with near field communication capability, including at least the PN544 product, at least because of NXP's good-faith belief of non-infringement and/or invalidity of the '551 Patent.

49. NXP is entitled to a declaratory judgment of non-infringement of the '551 Patent by NXP products with near field communication capability, including at least the PN544 product.

### **COUNT THREE**

#### **(Declaratory Judgment of Invalidity of U.S. Patent No. 7,665,664)**

50. NXP repeats and realleges Paragraphs 1 through 49 above as though fully set forth herein.

51. France Brevets, through its licensing and enforcement activities and through the NFCT Lawsuit filed by its alter-ego and/or agent NFCT, contends that the '664 Patent is valid and enforceable.

52. At least claims 1, 13, and 29 of the '664 Patent are invalid and unenforceable for failure to satisfy one or more of the requirements for patentability, including as set forth in 35 U.S.C. §§ 102, 103, and/or 112.

53. For example, at least claims 1, 13, and 29 of the '664 Patent are anticipated or rendered obvious by the prior art.

54. Furthermore, at least claims 1, 13, and 29 of the '664 Patent lack adequate written description, are not enabled, and/or are indefinite.

55. As set forth above, an actual and justiciable controversy exists between NXP and Defendants regarding the validity of the '664 Patent.

56. NXP is entitled to a declaration that at least claims 1, 13, and 29 of the '664 Patent are invalid.

**COUNT FOUR**  
**(Declaratory Judgment of Non-Infringement of U.S. Patent No. 7,665,664)**

57. NXP repeats and realleges Paragraphs 1 through 56 above as though fully set forth herein.

58. NXP has not directly infringed and does not directly infringe any valid and enforceable claim of the '664 Patent by any manufacture, use, sale, importation, licensing and/or offer for sale of NXP products with near field communication capability, including at least the PN544 product, and NXP is entitled to a judicial declaration to that effect.

59. NXP also has not indirectly infringed and does not indirectly infringe, either by contribution or by inducement, any valid and enforceable claim of the '664 Patent through making, using, selling, importing, offering for sale or importing NXP products with near field communication capability, including at least the PN544 product.

60. Additionally, NXP has not possessed and does not possess the specific intent to encourage another's infringement of the '664 Patent through the use of NXP products with near field communication capability, including at least the PN544 product, at least because of NXP's good-faith belief of infringement and/or invalidity of the '664 Patent.



1 offer for sale of NXP products with near field communication capability, including at least the  
2 PN544 product, and NXP is entitled to a judicial declaration to that effect.

3 71. NXP also has not indirectly infringed and does not indirectly infringe, either by  
4 contribution or by inducement, any valid and enforceable claim of the '419 Patent through  
5 making, using, selling, offering for sale or importing NXP products with near field  
6 communication capability, including at least the PN554 product, and NXP is entitled to a  
7 judicial declaration to that effect.

8 72. Additionally, NXP has not possessed and does not possess the specific intent to  
9 encourage another's infringement of the '419 Patent through the use or incorporation of NXP  
10 products with near field communication capability, including at least the PN544 product, at least  
11 because of NXP's good-faith belief of non-infringement and/or invalidity of the '419 Patent.

12 73. NXP is entitled to a declaratory judgment of non-infringement of the '419 Patent  
13 by NXP products with near field communication capability, including at least the PN544  
14 product.  
15

16 **PRAYER FOR RELIEF**

17 WHEREFORE, NXP prays for judgment and relief against Defendants that:

18 A. The Court enter a declaratory judgment that at least claims 1 and 5 of the '551  
19 Patent, at least claims 1, 13, and 29 of the '664 Patent, and at least the claims 1 and 12 of the  
20 '419 Patent are invalid;

21 B. The Court enter a declaratory judgment that NXP is not infringing and has not  
22 infringed, either directly or indirectly, any valid and enforceable claim of the '551, '664, and  
23 '419 Patents through making, using, selling, offering for sale or importing of NXP products with  
24 near field communication capability, including at least the PN544 product; and

25 C. The Court award such other and further relief as it may deem just and proper.  
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1  
2 March 14, 2014

Respectfully submitted,

By /s/ Mark D. Rowland

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